

REMARKS/ARGUMENTS

The non-final office action of September 29, 2009 has been carefully reviewed and these remarks are responsive thereto. Claims 1, 3, 5, 9, 13, 14, 16, 17, 19-21, 32 and 37 have been amended. No new matter has been added. Reconsideration, entry of the amendments and allowance of the instant application are respectfully requested. Claims 1-7, 9, 10, 12-21, 23 and 32-39 are pending upon entry of the present amendment.

Rejections under 35 U.S.C. § 103

Claims 1-7, 9, 10, 12-21, 23 and 32-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Raisanen (U.S. Patent App. Pub. No. 2004/0071095, "Raisanen 2004") in view of Friedrich *et al.* (U.S. Patent No. 5,958,009, "Friedrich") and Raisanen *et al.* (U.S. Patent App. Pub. No. 2003/0152028, "Raisanen 2003"). Applicants respectfully traverse these rejections.

Amended independent claim 1 recites, *inter alia*,

storing network data including the filtered data packet in a buffer of the monitoring apparatus, wherein the network data is indicative of a behavior of the network;

receiving a trigger signal at the monitoring apparatus from a remote network entity in response to a critical situation corresponding to the quality of service of the application, wherein the remote network entity is different from the two network nodes; and

in response to receiving the trigger signal, transmitting, from the monitoring apparatus, the stored network data to a remote network archive associated with the remote network entity, wherein the remote network archive is different from the buffer of the monitoring apparatus.

None of the cited documents, either separately or in combination, teaches or suggests the above recited features. For example, nowhere do any of the cited documents teach or suggest receiving a trigger signal at a quality of service monitoring apparatus from a remote network entity different from the two network nodes between which an application operation data packet is transmitted. The Office Action asserts that Raisanen 2003 describes receiving a trigger signal at a monitoring apparatus from a remote network entity in response to a critical situation corresponding to the quality of service of an application at para. [0040]. In particular, the Office

Action appears to rely on Raisanen 2003's description of the reception of a trigger signal at a QM (i.e., the alleged monitoring apparatus) from a measuring host (i.e., the alleged remote network entity from which the trigger signal is received). Even assuming, without conceding, that such an assertion is valid, Raisanen 2003 describes that the measuring host is a node through which data packets for measuring quality of service are transmitted. *See, e.g.*, para. [0041]. As such, Raisanen 2003 description is direct contrast to the measuring host (i.e., the alleged remote network entity) being ***different from*** the network nodes through which data packets associated with application operations are transmitted as recited in claim 1. Claim 1 is thus allowable for at least these reasons.

Additionally, the cited documents all fail to teach or suggest transmitting, from the monitoring apparatus, stored network data to a remote network archive associated with the remote network entity in response to receiving the trigger signal, wherein the remote network archive is different from a buffer of the monitoring apparatus. At most, Raisanen 2003 describes the QM storing QoS parameter values calculated by host pairs into a QoS database maintained by the QM. Para. [0056]. Nonetheless, nowhere does Raisanen 2003 teach or suggest that the QM transmits a filtered ***data packet*** to the QoS database (i.e., the alleged remote network archive). The mere description of a QoS parameter does not constitute a filtered data packet. Even assuming, without conceding, that the QoS parameter includes a filtered data packet, Raisanen 2003 still does not teach or suggest the transmission of the QoS parameter to a remote network archive ***different from*** the buffer of the monitoring apparatus as recited in claim 1. In fact, Raisanen 2003 only describes the storage of the QoS parameter in the QM's own database. Para. [0056]. Accordingly, claim 1 is allowable for these additional reasons.

Claims 13, 32 and 37 recite features similar to those discussed above with respect to claim 1 and are thus allowable for at least the same reasons as claim 1.

Claims 2-7, 9, 10, 12, 14-21, 23, 33-36, 38 and 39 are dependent claims and are thus allowable for at least the same reasons as their respective base claims and further in view of the novel and non-obvious features recited therein. For example, claim 4 recites, *inter alia*, "wherein the archive is configured to store data from a plurality of monitoring apparatuses." In the rejection, the Office Action merely states that "the limitations of these dependent claims do not introduce any additional features not found in their independent claims 1, 13, 32 and 37."

Applicants respectfully disagree. Claim 1 (upon which claim 4 depends) does not specifically recite the network archive being configured to store data from a plurality of monitoring apparatuses. Furthermore, none of the cited documents teach or suggest such a feature. For example, Raisanen 2003's description of the QoS database does not include any teaching or suggestion of the QoS database being configured to store data from a plurality of monitoring apparatuses. At most, Raisanen 2003 merely describes the QoS database as storing data for the corresponding QM. Para. [56]. Raisanen 2004 and Friedrich are similarly deficient. Accordingly, claim 4 is allowable for this additional reason.

CONCLUSION

If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,
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